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C O N F I D E N T I A L SECTION 01 OF 02 KINGSTON 002292

SIPDIS

STATE FOR INL/LP (BOZZOLO), WHA/CAR (BENT)

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TAGS: [PREL](#) [PGOV](#) [SNAR](#) [KCRM](#) [JM](#)

SUBJECT: THE CONTROVERSY OVER EXTRADITION

Classified By: Charge Ronald S. Robinson for reasons 1.4 (b) and (d).

SUMMARY

1. (C) On October 3, NAS Director spoke with the Legal advisor to the Minister of Justice, Dr. Stephen Vasciannie and Justice Ministry Permanent Secretary Carol Palmer regarding reports that the GOJ is preparing to move extradition cases from the Resident Magistrate Court (RMC) to the Supreme Court. Palmer confirmed that that GOJ is exploring the possibility because defense attorneys are using loopholes in the system to delay the extradition process. On September 11, Minister of Justice, A. J. Nicholson sternly responded to a call from defense attorneys and other detractors for the revision of the Extradition Act and Jamaica's Extradition Treaty with the U.S., stating in part that Jamaican authorities remain resolute in the fight against illegal drugs, and the GOJ will continue to cooperate in extradition proceedings with the U.S. and other countries. End Summary.

2. (C) On October 3, NAS Director spoke with the Legal advisor to the Minister of Justice, Dr. Stephen Vasciannie and Justice Ministry Permanent Secretary Carol Palmer regarding reports that the GOJ is preparing to move extradition cases from the Resident Magistrate court (RMC) to the Supreme Court. Palmer confirmed that that GOJ is exploring the possibility because defense attorneys are using loopholes in the system to delay the extradition process. On September 11, Minister of Justice, A. J. Nicholson sternly responded to a call from defense attorneys and other detractors for the revision of the Extradition Act and Jamaica's Extradition Treaty with the U.S., stating in part that Jamaican authorities remain resolute in the fight against illegal drugs, and the GOJ will continue to cooperate in extradition proceedings with the U.S. and other countries.

3. (C) Palmer stated that the Ministry of Justice is in the "preliminary exploratory" stages and has just begun the research into what moving extradition cases from the RMC to the Supreme Court will entail. She also noted that if extradition matters were moved to the Supreme Court, there would be quicker decisions, which will benefit all parties involved. She stated that historically there have not been many extradition cases so this move should not have a negative effect on the workload of the Supreme Court. Corroborating Palmer's statement, Vasciannie stated that the decision was made not because cases are being held up by the court system, but by clever defense attorneys using an outdated court system to delay the extradition of their clients.

4. (C) Vasciannie explained that the GOJ is exploring an alternative means of handling extradition cases in which a defendant that is subject to the possibility of extradition, has recourse to two different appeal processes. In describing the current system, Vasciannie stated that both the Supreme Court and RMC have unlimited jurisdiction, which means that there will not be substantive changes to the rights of defendants. Currently, defendants are allowed to appeal a decision to extradite by the RMC to the Supreme Court. Once that decision is handed down, the case goes back to the RMC. He noted that what has become popular is for defendants to also claim that an affirmative decision to extradite violates their constitutional rights and they file a second motion with the Supreme Court. In the new, streamlined process, instead of having to go the RMC first, cases go straight to the Supreme Court where the general issue of extradition is heard as well as any constitutional motions. If a defendant loses the motions at the Supreme Court level, then he is allowed to bring a final motion to the Court of Appeal, the court of last resort, and that court's decision is final.

5. (C) Both Palmer and Vasciannie reiterated that this process is only in the exploratory stage and stated that in order to change the way extradition cases are handled, the Extradition Act would have to be amended. While there is no timeline for this, Palmer stated that the Minister of Justice would like to have the new process finalized before the end

of the year. Vasciannie added, "the Minister of Justice would want him to note that the streamlining of extradition cases would also enhance the cooperation between the GOJ and the U.S."

Extradition Act Unconstitutional

16. (C) There currently are two U.S. designated "Drug Kingpins" awaiting extradition hearings, Leebert Ramcharan and Norris "Dedo" Nembhard. Both defendants' attorneys have claimed that the Extradition Act is unconstitutional and that their clients cannot be assured of a fair trial if extradited to the U.S. due to their designation on the U.S. drug kingpin list. Defense attorneys and other critics have also claimed that the kingpin designation is inconsistent with principles of justice and the rule of law and may prejudice the right to a fair trial by virtue of its impact on public opinion in the U.S.

17. (C) On September 11, Minister of Justice A. J. Nicholson responded to these allegations by stating that "the courts in the U.S. are usually sensitive to the effect of prejudicial, pre-trial publicity on the rights of the accused, and so, have in place safeguards to ensure that the selection of jurors in cases concerning alleged drug kingpins does not allow for undue influence among persons selected for jury duty in these cases." Nicholson added that there may conceivably be cases in which persons in the U.S. are aware of the drug kingpin designation, and may find themselves a juror in one of these cases. If this were to happen, Nicholson argued that jurors would be obliged to disregard the designation and to pay attention only to the evidence presented in the case. Nicholson stated that Jamaican authorities remain resolute in the fight against illegal drugs, and that the GOJ will continue to cooperate in extradition proceedings with the U.S. and other countries.

18. (C) On September 9, NAS Director met with the Acting Deputy Director of Public Prosecutions, (DPP) Donald Bryan. Bryan stated that the repetitive arguments that the Extradition Act is unconstitutional and that Jamaica's Extradition Treaty with the U.S. needs to be revised, are an effort to gain public sympathy for those accused. He further stated that the DPP's office does not foresee any changes to the Extradition Act based on the arguments of critics. Crown Council Jeremy Taylor advised on October 4 that a ruling on Ramcharan's motion that the "Kingpin" designation is unconstitutional will be given on October 6. Taylor stated that he expects the ruling will not be in Ramcharan's favor and that Ramcharan's attorneys will probably then file a motion with the Court of Appeal.

19. (C) Comment: The Embassy enjoys good cooperation with the GOJ on extradition matters. The decision to streamline the extradition process is a welcome development but will come with a good amount of protest from defense attorneys and other detractors. To no one's surprise, Jamaica's suspected drug king pins are able to afford the country's top defense attorneys to exploit any weakness in the case against their clients. An affirmative outcome to the high profile extradition cases of U.S. drug designated kingpins Leebert Ramcharan and Norris "Dedo" Nembhard will undoubtedly send a shockwave through Jamaica as these cases will set a precedent for others. Post will continue to monitor and report on developments on extradition matters. End Comment.
ROBINSON